

EXHIBIT 30

Filed Under Seal

In the Matter Of:

In Re: Pork Antitrust Litigation

MICHAEL WILLIAMS, PH.D.

June 21, 2022



25

1 documenting Triumph's sales of pork products.

2 Q. And that structured data does not include
3 data on Triumph's hog production. Correct?

4 MR. FINLEY: Hold on. Objection on the
5 basis of the expert stip to the extent that this
6 is getting into materials possibly considered but
7 not relied upon.

8 A. Yeah. The dependent variable in the
9 overcharge regression, again, it's Triumph's.
10 Part of the dependent variable would be Triumph's
11 sales, not its output.

12 Q. Not its hog production. Correct?

13 MR. FINLEY: Objection to form.

14 A. It's -- the dependent variable is
15 Triumph's sales of the disputed pork products.
16 That's part of the dependent variable.

17 Q. Under your assumptions, when did the
18 conspiracy start?

19 MR. FINLEY: Objection, form.

20 A. So the plaintiffs allege that the
21 conspiracy began in January of 2009.

22 Q. And under your assumption, was the
23 conspiracy continuous for the entire period
24 between January 2009 and June of 2018?

25 MR. FINLEY: And objection, form. Also

26

1 objection on the basis of expert stip to the
2 extent this gets into materials considered but not
3 relied upon.

4 A. Yes. My understanding is that the
5 plaintiffs allege a single conspiracy that was
6 present during that time period.

7 Q. Are you assuming that the conspiracy was
8 effective continuously throughout that time period
9 or were there periods when it fell apart?

10 MR. FINLEY: Objection, form.

11 A. I'm not making an assumption in that
12 regard one way or the other. The overcharge
13 regression doesn't assume that the alleged
14 conspiracy had any effect on prices. It tests
15 whether or not there was an effect on prices.

16 Q. Are you assuming that defendants agreed to
17 restrict hog production in each year between 2009
18 and 2018?

19 MR. FINLEY: Objection, form. Also,
20 objection on the basis of expert stipulation.

21 A. My report doesn't make a specific
22 statement in that regard.

23 But I believe it's correct, as I just
24 testified a moment ago, that the plaintiffs have
25 asserted that there was a single conspiracy that

27

1 affected pork prices of the relevant products and
2 that that alleged conspiracy was present from
3 January 2009 through June 2018.

4 Q. Are you assuming that defendants agreed to
5 restrict hog production in 2016?

6 MR. FINLEY: Objection, form. Also,
7 objection on the basis of expert stipulation.

8 A. Again, my report doesn't have a specific
9 statement to that effect. But the -- I believe
10 that, as I said, the complaint alleges that there
11 was a conspiracy as the complaint says -- I'm
12 looking at Paragraph 6 -- ''Starting in at least
13 2009 and continuing to the present, Defendants
14 conspired to fix, raise, maintain and stabilize
15 pork prices.''

16 And then it goes on to talk about -- the
17 complaint goes on to talk about various mechanisms
18 through which this alleged conspiracy was
19 effectuated --

20 Q. And I'd like to talk -- go ahead. Please
21 finish.

22 A. I'm sorry.

23 -- again, over the relevant time period,
24 which would be January 2009 to June 2018.

25 Q. And you mentioned mechanisms. That's what

1 answered, lack of foundation.

2 A. Yeah. I'm assuming that in 2016 the
3 defendants engaged in the conduct that's alleged
4 in the complaint as it relates to conduct that
5 allegedly supported the claimed conspiracy.

6 Q. Are you assuming that all decreases in sow
7 inventory between January of 2009 and June of 2018
8 were a result of the alleged conspiracy?

9 MR. FINLEY: Hold on. And objection,
10 form, also on the basis of expert stipulation.
11 This is something possibly considered, not
12 necessarily relied on.

13 A. My report doesn't offer such an opinion.
14 My report doesn't make such. It doesn't have a
15 statement about that.

16 Q. Are you assuming that all decreases in hog
17 production between January of 2009 and June
18 of 2018 were a result of the conspiracy?

19 MR. FINLEY: Same objection.

20 A. Again, the -- I mean, the complaint speaks
21 for itself. So I'm assuming that the allegations
22 in the complaint are true as it pertains to those
23 allegations that are relevant to the alleged
24 conspiracy.

25 I don't specifically recall right now if

32

1 the complaint has the statement that you just
2 made. I don't remember right now.

3 Q. Are you assuming that all increases in
4 exports between January 2009 and June 2018 were a
5 result of a conspiracy?

6 MR. FINLEY: Same objections.

7 A. Yeah. I'll repeat my answer.

8 My answer is that I am assuming that the
9 allegations in the complaint are true as it
10 pertains to the alleged conspiracy. I don't
11 specifically recall right now if the complaint
12 makes such an allegation.

13 Q. Do you recall whether the complaint
14 alleges the defendants coordinated reductions in
15 kill levels at their plants?

16 A. I don't recall that right now.

17 Q. Does the conspiracy, as you understand it
18 or assume it, involve an agreement not to expand
19 capacity?

20 A. I don't specifically recall that statement
21 in the complaint.

22 Q. Are you making any assumptions for
23 purposes of your opinions about defendants'
24 slaughter capacity?

25 MR. FINLEY: Same objections as above.

1 A. My report doesn't contain a specific
2 statement about slaughter capacities.

3 Q. Could we take a look at the complaint,
4 Paragraph 162, which is on page 65.

5 THE VIDEOGRAPHER: Counsel, what page is
6 it again?

7 MR. SCHWINGLER: I believe it's on
8 page 65.

9 Caylob, it's on the next page,
10 Paragraph 162.

11 Q. So plaintiffs allege, "Defendants further
12 refused to increase their capacity and gain market
13 share even when market fundamentals and economics
14 dictated otherwise. For example, during the 2014
15 PEDv epidemic, which caused industry supply
16 disruptions, Eric Haman, Defendant Clemens Food
17 Group's communications manager, stated the disease
18 ' "had a very minimal impact on our hog flow,
19 especially when you compare it to others in the
20 industry," Haman said. "That's one of the many
21 benefits of raising hogs in Pennsylvania, since we
22 have a much lower density of pigs than other
23 states, which decreases the risk of (a virus) like
24 this. ' "

25 Did I read that right?

1 A. I believe so.

2 Q. And then the plaintiffs go on to allege,
3 "Yet, in furtherance of their conspiracy Defendant
4 Clemens did not take advantage of having few PEDv
5 infected pigs. Instead of attempting to increase
6 their market share, they stayed the course with
7 their fellow competitors."

8 Did I read that right?

9 A. I believe so.

10 Q. Are you assuming that allegation to be
11 true?

12 MR. FINLEY: Objection, form.

13 A. Well, the overcharge regression doesn't
14 have data on Clemens's production of hogs. It has
15 data on Clemens's sales of hogs. But it's just
16 empirically looking at those prices and then
17 asking whether or not those prices are consistent
18 with the nonconspiratorial explanatory factors; in
19 other words, the other right-hand-side variables
20 in the regression.

21 And as it pertains to the production
22 regression, as we talked about earlier, the
23 production regression doesn't use any defendant's
24 individual hog production.

25 Q. Does whether or not Clemens took advantage

43

1 page 16.

2 Q. So in Paragraph 34 you write, "In this
3 Section, I will review the horizontal and vertical
4 structure of the pork industry, including long-run
5 trends in the industry structure economically
6 relevant in this matter."

7 Did I read that right?

8 A. I believe so.

9 Q. What do you mean by "economically
10 relevant"?

11 A. I would refer you generally to
12 Section III.A., where I talk about the market
13 structure of the pork industry.

14 So I would say the economically relevant
15 aspects that I'm discussing in Paragraph 34 are
16 those that pertain to the discussion that appears
17 later in Section III.A.

18 Q. I guess here is what I'm getting at. By
19 "economically relevant," are you referring to the
20 trends in industry structure that are relevant to
21 assessing whether the alleged conspiracy impacted
22 pork prices?

23 A. No, I wouldn't say it that way.

24 I would say that "economically relevant,"
25 the phrase that appears in Paragraph 34, is

1 connected with the discussion that begins on
2 page 34, particularly Paragraph 69, which talks
3 about the market structure of the pork industry
4 and whether or not that market structure is or is
5 not conducive to the existence of collusion.

6 Q. Now look at the paragraph, the section
7 that starts on Paragraph 34 and spans, you know,
8 several pages. Do you see a header about
9 "Consolidation and specialization of farming
10 operations"? That's Romanette i.

11 The next subheader, Romanette ii, "Hog
12 farming and hog packing are increasingly
13 integrated," and then -- I guess those are the
14 two.

15 My question is, are the subject matter of
16 these paragraphs in your report, is that
17 information that is relevant to assessing whether
18 the alleged conspiracy impacted pork prices?

19 A. No, I wouldn't say it that way.

20 I would say that as the -- remember, the
21 name of this section was "Industry Background."

22 So I would say that these sections are
23 providing industry background for the edification
24 of the reader and that the -- generally, in this
25 section I tried to focus on, as it says in

1 Paragraph 34, the economically relevant aspects of
2 the industry background.

3 And those -- as I said earlier, the
4 economically relevant parts of the industry
5 background that are discussed in Section II are
6 those that pertain primarily to the discussion
7 that is present in Section III.A.

8 Q. In Paragraph 35 of your report, which is
9 on page 16, you write -- the last sentence --
10 well, the second to the last sentence reads, "The
11 resulting industry structure is now moderately
12 concentrated among a relatively few large
13 companies, including the pork integrator
14 Defendants. Many of these companies, including
15 Defendants, have also acquired upstream hog
16 farming operations or entered into long-term,
17 vertical contracts with hog farms, thereby
18 increasing the pork integrator Defendants' degree
19 of upstream vertical control."

20 Did I read that right?

21 A. I believe so.

22 Q. And is that an example of a trend in
23 industry structure that you deem economically
24 relevant in this matter?

25 MR. FINLEY: Objection to form.

1 Q. This is your opportunity to tell us
2 whether your opinions -- whether this scenario,
3 whether defendants preventing other companies from
4 expanding or causing them to grow fewer hogs is
5 relevant to your opinions. I've asked it every
6 way I can think of. So we'll move on. We'll
7 reserve all rights to go to the court on this one.

8 MR. SCHWINGLER: We've been going for
9 about an hour 25. Is now a good time for a break?
10 I'm happy to keep going.

11 THE WITNESS: I'm happy to keep going.

12 THE REPORTER: I could use a restroom
13 break.

14 THE VIDEOGRAPHER: The time is 9:24 a.m.
15 We're now going off the record.

16 (Recess from 9:24 a.m. to 9:36 a.m.)

17 THE VIDEOGRAPHER: The time is 9:36 a.m.
18 We're now back on the record.

19 BY MR. SCHWINGLER:

20 Q. Dr. Williams, I'd like to ask some
21 questions about exports.

22 First things first, in your understanding,
23 is an agreement to increase exports part of the
24 alleged conspiracy?

25 MR. FINLEY: Objection, form, calls for a

1 legal conclusion.

2 A. Yeah. I was going to say, that sounds
3 like you're really asking for a legal opinion.

4 As I've said earlier, the complaint speaks
5 for itself. I've assumed that the -- as we talked
6 about in the first sentence in Paragraph 12, that
7 for purposes of estimating overpayments, if any,
8 caused by the alleged conspiracy, I've assumed
9 that the allegations in the complaint are true.

10 I don't specifically remember a statement
11 about an alleged agreement to restrict exports.

12 Again, as I said earlier, my understanding
13 is that the plaintiffs allege a single conspiracy
14 and then describe various mechanisms that the
15 defendants allegedly used to carry out that
16 alleged conspiracy.

17 I don't specifically remember right now
18 whether or not there is an allegation about an
19 alleged agreement to restrict exports. I just
20 don't recall that.

21 Q. When you constructed your regressions to
22 measure the impact of the alleged conspiracy on
23 pork prices, did you assume that the conspiracy
24 included increased exports?

25 MR. FINLEY: Objection, form, vague,

1 ambiguous, lack of foundation.

2 A. Well, again, I won't repeat the answer I
3 just gave you. But again, I'd just take you back
4 to that first sentence in Paragraph 12. But then
5 if we look at the output regression on page 105 in
6 Table 4, there is no export variable in this
7 regression.

8 Q. What's the significance of that?

9 A. Well, the significance of it is you're
10 asking if I made an assumption about exports. And
11 the answer is that it's not -- there isn't an
12 export variable regression. So there's no
13 specific assumption about exports one way or the
14 other.

15 Q. The purpose -- the high-level purpose of
16 your regressions is to isolate the effects of
17 defendants' alleged conspiracy from the effects of
18 nonconspiratorial factors. Is that fair?

19 MR. FINLEY: Objection, form.

20 A. Yeah. That's a little vague. But I'd say
21 I would generally agree with that.

22 Q. In order to do that, you need to start
23 with what defendants are alleged to have done.
24 Correct?

25 MR. FINLEY: Objection to form.

1 Illinois Brick states, and then using the
2 pass-through information and other information
3 that's discussed in Sections IV and V to come up
4 with the estimate of damages, which is in
5 Table 12.

6 But those discussions don't specifically
7 rely on Figure 6.

8 Q. You're not opining that the members of the
9 commercial and institutional indirect purchaser
10 class paid higher prices for pork as a result of
11 increases in exports?

12 MR. FINLEY: And objection, vague,
13 ambiguous, calls for speculation, calls for a
14 legal conclusion.

15 A. Yeah. We talked earlier about the
16 overcharge regression, which is in a sense the
17 beginning of the damage calculation.

18 And there is no variable in that
19 overcharge regression which appears in Table 4,
20 there is no variable in there for exports, so
21 there's not -- certainly no direct connection
22 between Figure 6 and the estimated overcharge.

23 And then as I mentioned a moment ago, the
24 actual calculation of damages, which of course
25 goes through a number of steps to get to the

1 relevant volume of commerce, is in a sense
2 affected by exports, but it's really looking at
3 the domestic sales of the relevant pork products.

4 Q. Are you offering an opinion that increases
5 in exports resulted in higher prices for members
6 of the class during the period 2009 to June 2018?

7 MR. FINLEY: Objection to form, vague,
8 ambiguous.

9 A. No. I don't believe my report says that.
10 Again, as we've talked about, Table 4 does not
11 have a variable for exports.

12 Q. Let's take a look at Paragraph 62 of your
13 report, which is on page 31.

14 A. Yes. I'm here.

15 Q. And this paragraph -- well, the header
16 above this paragraph is "Events affecting pork
17 exports." Correct?

18 A. That is correct.

19 Q. And then in Paragraph 62 you wrote, "Net
20 U.S. pork exports increased during 2000 through
21 2020, this increase was not uniform."

22 Did I read that right?

23 A. You did.

24 Q. And then you say, "As Figure 6 above
25 shows, net exports fell in some years (2009 and

1 2013-2015) before rebounding later."

2 Did I read that right?

3 A. You did.

4 Q. And then you wrote, "These temporary
5 decreases in exports are often due to factors and
6 events outside of the control of U.S. pork
7 producers and pork processors."

8 Did I read that correctly?

9 A. Yes, you did.

10 Q. And it's in your report. I take it you
11 agree with that statement?

12 A. Yes, I agree.

13 Q. And then you quote from the USDA. You
14 say, "For example, in April 2009, the USDA
15 reported:

16 " 'Deterioration in the global economic
17 situation, restrictive trade policies, the
18 stronger U.S. dollar and changing market
19 conditions, are among the reasons for falling
20 demand in some major importing countries.' "

21 Did I read that right?

22 A. You did.

23 Q. And then you say, "This decline was
24 transitory, and international meat trade rebounded
25 in 2010, benefitting U.S." . . . "exporters."

141

1 So as I said, the goal would be to
2 identify a period of time for the benchmark that
3 was unaffected by the disputed conduct.

4 And I believe that the econometric
5 evidence and the production regression, the other
6 evidence in the paragraphs I cited earlier, as
7 well as the evidence in the complaint, supports
8 the instruction I received about what period I
9 should use as the damages period.

10 And then I believe it's appropriate to use
11 as the benchmark period the period of time that
12 just precedes the onset of the damages period and
13 then working back from there.

14 Q. Other than the fact that 2008 just
15 precedes the alleged damages period, you're not
16 relying on any analysis of industry factors for
17 market conditions in 2008 that, in your opinion,
18 support using it as a benchmark for analyzing the
19 production that came in the years to follow. Is
20 that fair?

21 MR. FINLEY: Objection, asked and
22 answered.

23 A. I don't think I'd agree with quite the way
24 you're saying it.

25 What I testified earlier to was my report,

142

1 for example, does not contain an opinion that
2 there was -- obviously I'm not going to repeat
3 everything that's in Subsection III.B., which
4 relates to actions against the defendants'
5 unilateral self-interest in the absence of an
6 agreement.

7 But my report -- maybe I'll state it in
8 the alternative.

9 My report does not offer an opinion that
10 2008 is contaminated by the disputed conduct. So
11 I believe that 2008 is an appropriate year to
12 include in the benchmark.

13 Q. And I'm not asking whether you think '08
14 is contaminated by the disputed conduct. I'm just
15 trying to understand what you're relying on in
16 selecting your benchmark period.

17 So I understand it's a year before the
18 alleged conspiracy started. I understand you have
19 data available for that year.

20 Other than those two things, is there
21 anything else about 2008 that you're relying on
22 when you select it as part of your benchmark?

23 MR. FINLEY: Same objection.

24 A. Well, again, I'm not going to repeat the
25 long answers that I've given in the last couple of

143

1 minutes.

2 But the -- I believe it's appropriate to
3 include 2008 in the benchmark because it's not in
4 the damages period. It precedes the damages
5 period, precedes the period used, for example, in
6 the production regression.

7 I won't go through all of them, obviously,
8 but the two different sets of paragraphs I cited
9 earlier about evidence about communications, the
10 information that's in the complaint.

11 As I said, so far as I'm aware, it is
12 appropriate in the context of the production
13 regression and the overcharge regression to use --
14 to consider 2008 as part of the benchmark period.

15 And as I said earlier, the goal would
16 be -- is always in identifying a benchmark period
17 to identify a period of time in which the disputed
18 conduct was not present.

19 And so far as I know, the disputed conduct
20 was either not present or certainly less present.
21 Again, it's preferable from an econometric
22 perspective if there's no disputed conduct in the
23 benchmark period.

24 Q. Is your production regression sensitive to
25 including 2008 in the benchmark period?

144

1 MR. FINLEY: Objection. And I'm
2 definitely going to object on the basis of the
3 expert stip here since this does seem to ask for
4 preliminary work product or alternate calculations
5 if they were made.

6 MR. SCHWINGLER: I'm going to be very
7 clear about what I'm asking for. I'm not asking
8 for preliminary models. I'm asking whether the
9 model that he is offering is sensitive to
10 inclusion of 2008 in the benchmark period. This
11 is his opportunity to answer that question.

12 If you're going to instruct him not to
13 answer, you can do that. But my question is not
14 about preliminary work. It's about whether his --
15 the work he is relying on is sensitive to that
16 variable.

17 MR. FINLEY: And perhaps there are other
18 ways he could answer this without reference to
19 preliminary work. But it seems like one thing
20 this -- the one salient thing this might call for
21 is preliminary work.

22 Sorry. In other words, are you defining
23 "sensitivity" in a way that doesn't include
24 preliminary work, reference to preliminary work?

25 MR. SCHWINGLER: I want to know if he's

152

1 A. My report doesn't offer an opinion about
2 that.

3 Q. You would agree that in order to make
4 pork, you have to have a hog. Correct?

5 A. That would be my understanding.

6 Q. So do you dispute that hog supply impacts
7 the quantity of pork produced in the United
8 States?

9 MR. FINLEY: Objection, form.

10 A. I don't have a specific reason to dispute
11 that. I'm just correctly noting that my report
12 doesn't offer an opinion.

13 Q. And your production regression does not
14 control for changes in hog supply, does it?

15 MR. FINLEY: Objection, form.

16 A. Well, it controls for a number of factors
17 that affect -- related to that.

18 It controls for hog costs. It controls
19 for the plant costs of pork processing. It
20 controls for the piglet loss rate. It controls
21 for swine flu.

22 So it controls for a number of factors,
23 all the factors that are listed in Table 3. It
24 doesn't have a specific variable called "supply of
25 hogs."

153

1 Q. You don't use USDA data on how many hogs
2 were actually produced between 2005 and whatever
3 the year was, 2020, as an input into your
4 production regression, do you?

5 A. That is correct. There's no independent
6 variable of what -- of the type that you're
7 describing now.

8 Q. There's also no independent variable that
9 accounts for changes in hog prices. Correct?

10 MR. FINLEY: Objection, form.

11 A. Yes. There's a variable -- there are
12 related variables, but there's not a variable
13 that's specifically called "hog prices."

14 Q. And Paragraph 25 of your report -- sorry
15 to jump around. It's on this topic.

16 MR. SCHWINGLER: It's on page 12, Caylob.

17 Q. So in Paragraph 25 you write, "The cost of
18 acquiring live hogs -- be it from a packer-owned
19 farm, a contract farm, or the public market -- is
20 the most significant part of packing and
21 processing operations, accounting for
22 approximately 70% of the total cost."

23 Did I read that correctly?

24 A. Yes, sir.

25 Q. And you would agree with me that in

154

1 circumstances where a packer buys a hog from a
2 third-party producer, its cost of acquiring that
3 hog would be the price it paid for the hog.

4 Correct?

5 A. That sounds right.

6 Q. Does the total U.S. sow inventory affect
7 the quantity of pork produced in the United
8 States?

9 MR. FINLEY: Objection, calls for
10 speculation.

11 A. My report doesn't offer an opinion on
12 that.

13 Q. And your production regression does not
14 include a control variable for sow inventory.

15 Correct?

16 A. That is correct.

17 Q. Does the number of pigs imported from
18 Canada affect the quantity of pork produced in the
19 United States?

20 A. My report does not offer an opinion on
21 that.

22 Q. And your production regression does not
23 include a control variable to address changes in
24 pigs imported from Canada. Correct?

25 A. That is correct.

155

1 Q. Does overseas demand for U.S. pork affect
2 the quantity of pork produced in the United States
3 net of net exports?

4 A. My report does not offer an opinion on
5 that. No.

6 Q. Your production regression does not
7 include a control variable that addresses changes
8 in overseas demand for U.S. pork. Correct?

9 A. That is correct.

10 Q. Do changes in pork supply overseas, such
11 as a disease outbreak in China, impact the
12 quantity of pork exported out of the United States
13 to other countries?

14 MR. FINLEY: Objection, form.

15 A. My report does not offer an opinion on
16 that.

17 Q. And your report does not include a control
18 variable to address changes in overseas pork
19 supply. Correct?

20 A. That is correct.

21 MR. FINLEY: Objection.

22 Q. Do changes in currency exchange rates
23 impact or affect the quantity of pork exported to
24 other countries?

25 MR. FINLEY: Same objection.

202

1 Q. And I can't remember. I know I asked you
2 these questions about your production regression.
3 I'm drawing a blank on whether I asked as to the
4 overcharge. So apologies if we're double-dipping
5 here.

6 Did you run any sensitivity checks on the
7 overcharge regression that you report -- that you
8 disclose in your report?

9 MR. FINLEY: Sure. And so the question
10 has changed. I'll object on the basis of expert
11 stip to the extent this is calling for calculation
12 that is not shown in the report or relied upon.

13 A. So the only overcharge regression that I'm
14 showing in my report is the one shown in Table 4.

15 Q. And you're not defending this overcharge
16 report -- the overcharge regression that you
17 disclose in your report on the basis that it is
18 not sensitive to slight modifications and
19 assumptions. Is that fair?

20 MR. FINLEY: Objection, form.

21 A. I would say that what I'm relying on are
22 the analyses that I've undertaken to perform the
23 overcharge regression results. And that's -- and
24 all of the bases for that, all of the facts, all
25 of the data, all the modeling, that is all

203

1 disclosed in my report.

2 Q. Is your overcharge regression sensitive to
3 your decision to designate one damages period
4 covering 2009 through June 2018?

5 MR. FINLEY: Objection on the basis of the
6 expert stip.

7 A. My report only shows -- only relies on a
8 single dummy variable for that period January 2009
9 through June 2018.

10 MR. SCHWINGLER: I want to make sure the
11 record is clear on this and I'm not -- this isn't
12 an attempt to be argumentative.

13 Blaine, are you instructing him not to
14 answer my question?

15 MR. FINLEY: Well, I thought I did.

16 MR. SCHWINGLER: You objected. I didn't
17 hear an instruction. He did not answer my
18 question. I want to make sure the record is clear
19 as to why.

20 MR. FINLEY: What's the pending question?

21 MR. SCHWINGLER: Let me do the question
22 again. This isn't an attempt to -- this isn't
23 rhetorical. I just want to make sure the
24 transcript is clear.

25 So I need to scroll back up -- here we go.

204

1 So my question is, "Is your overcharge
2 regression sensitive to your decision to designate
3 one damages period covering 2009 through
4 June 2018?"

5 MR. FINLEY: Sure. And so I will object
6 on the basis of the expert stip to the extent that
7 the only basis of knowledge is preliminary
8 calculations or other preliminary work product
9 done in anticipation of this report.

10 Otherwise, the witness may answer.

11 A. So the answer is, I have reported one
12 regression result for the overcharge regression.

13 And the bases for that regression are all
14 disclosed in my report, everything I've relied on,
15 all the data I've relied on, all the modeling I've
16 relied on, and that's what's presented in Table 4.

17 Q. And are you unwilling to answer the
18 question whether you -- whether your model is
19 sensitive to using one damages period?

20 MR. FINLEY: Objection, form, lack of
21 foundation. Also objection on the basis of the
22 expert stip.

23 A. I think I've answered your question. My
24 answer -- I won't repeat the answer I just gave
25 because I've given it two or three times now. I

205

1 really don't have anything else to add.

2 Q. Your answer didn't state whether or not
3 your regression model was sensitive to the
4 decision to use one damages period.

5 And I'm just trying to understand, is that
6 a question you're not answering based on Counsel's
7 objections? Is it a question you don't know the
8 answer to?

9 It's unclear to me from the record right
10 now which is which.

11 MR. FINLEY: It's a broad question. But
12 also, are you asking him about something in his
13 report or are you just asking this general
14 proposition that may touch on preliminary work
15 product?

16 MR. SCHWINGLER: I'm asking him whether
17 his overcharge regression is sensitive to using
18 one damages period. That's the question.

19 Look, this is your opportunity to let your
20 expert defend his work. If you're going to
21 instruct him not to do that, then the record is we
22 asked the question, "Is your model sensitive?"

23 Plaintiff counsel instructed the witness
24 not to answer.

25 MR. FINLEY: Now you're mischaracterizing

206

1 the record. And I disagree with that
2 characterization of the record. And there would
3 be a lot of criticism to this line of questioning
4 that I would level that maybe doesn't make sense
5 to go into right now on the record, but we can.

6 MR. SCHWINGLER: If you're not instructing
7 him not to answer, then I want an answer to the
8 question.

9 MR. FINLEY: Part of the problem is the
10 question is very broad and vague and ambiguous;
11 and therefore, it's unclear to what degree this
12 question will touch on preliminary work product.

13 But it seems that it may well, since -- I
14 mean, is there anything labeled "sensitivity
15 analysis" in the report you're asking him about?

16 MR. SCHWINGLER: I have not seen it.

17 MR. FINLEY: Then that . . .

18 BY MR. SCHWINGLER:

19 Q. Dr. Williams, do you understand what I
20 mean by -- when I ask you whether your model is
21 sensitive to a certain choice you make and how you
22 constructed the model?

23 A. I would say it's very vague because a
24 model can be sensitive for different reasons. As
25 I've said, my regression results are shown in

1 Table 4, period.

2 Q. I'm going to ask the question one more
3 time.

4 MR. SCHWINGLER: Blaine, you're going to
5 have to be clear on what you're doing or not
6 doing. And I'm not going to ask it again. We'll
7 reserve our rights to come back and get an answer
8 to the question --

9 MR. FINLEY: We always reserve our rights.

10 Absolutely.

11 Q. Just one more time. And I will move on
12 after this.

13 Dr. Williams, is your overcharge
14 regression sensitive to your decision to designate
15 one damages period covering 2009 through
16 June 2018?

17 MR. FINLEY: Sure. And I'll object on the
18 basis of the expert stipulation, among other
19 reasons, because this question seems -- is vague
20 and ambiguous and also seems to be directed toward
21 preliminary calculations and work product that may
22 or may not exist, since it has not been specified
23 what analysis, in particular sensitivity analysis,
24 in the report is being referenced, since Counsel
25 will not identify any sensitivity analysis that

208

1 this question pertains to.

2 But if outside of preliminary analysis

3 work product there's an answer to this question,

4 Dr. Williams may answer.

5 A. I really don't have anything else to add

6 to my prior answers.

7 Q. All right. And what happens to the

8 results in your overcharge regression if you split

9 the damages period into smaller segments?

10 MR. FINLEY: Same objection. This is

11 clearly -- objection on the basis of the expert

12 stip. This seems clearly directed toward

13 preliminary work product analysis.

14 MR. SCHWINGLER: Is that an instruction

15 not to answer?

16 MR. FINLEY: Yes, unless there's something

17 in the report that touches on this. I mean, is

18 there something in the report you're referencing?

19 MR. SCHWINGLER: I have not seen anything

20 in the report on this.

21 MR. FINLEY: Well, then is your goal to

22 pierce the expert stip?

23 MR. SCHWINGLER: I'm asking a question.

24 You can decide whether you want to instruct the

25 witness not to answer.

1 MR. FINLEY: Then I will because I don't
2 understand how this isn't directed toward just
3 going right around or piercing the expert stip.

4 MR. SCHWINGLER: I'm not going to debate
5 this point on the record any more. You just make
6 a decision whether you're instructing the witness
7 not to answer the question or not, and we'll deal
8 with it later.

9 MR. FINLEY: I definitely am making that
10 decision.

11 MR. SCHWINGLER: And you're instructing
12 him not to answer?

13 MR. FINLEY: Like I've put on the record a
14 number of times, I'm instructing the witness not
15 to answer to the extent that the answer is
16 exclusively or really is intertwined with
17 preliminary work product.

18 And as per our back-and-forth, that would
19 seem to be a binding instruction, since you've
20 refused to identify anything concrete specifically
21 in the report that is a sensitivity analysis that
22 you're asking a question about.

23 MR. SCHWINGLER: And I'm not refusing to
24 do anything. You and I both know it's not in the
25 report. I've been clear about that.

210

1 Why don't I ask a few questions and then
2 we'll move on.

3 BY MR. SCHWINGLER:

4 Q. Dr. Williams, isn't it true that your
5 report contains no sensitivity analysis of your
6 overcharge regression?

7 MR. FINLEY: Objection, form.

8 A. Well, I suppose it depends on what you
9 think "sensitivity analysis" means.

10 But my report contains -- with respect to
11 the overcharge regression, it contains a single
12 overcharge regression. And my report explains all
13 of the data and modeling choices and variables on
14 which I'm relying to perform the regression that's
15 shown in Table 4.

16 Q. Your report contains no -- it does not
17 report any results for your regression where the
18 damages period has been split into smaller
19 segments. Correct?

20 MR. FINLEY: Objection, form.

21 A. That is correct. There is a single dummy
22 variable for the damages period in the overcharge
23 regression in Table 4. There is a single dummy
24 variable for the period January 2009 through
25 June 2018.

259

1 MR. FINLEY: Objection, form.

2 A. Are you referring -- just so I'm clear,
3 are you referring now to the three regressions we
4 were talking about in Paragraphs 271, -72, and
5 -73? Are you talking about Table 4 or --

6 Q. Let's talk about Table 4. I think the
7 questions are -- could apply to all, but you can
8 correct me if I'm wrong.

9 The dependent variable in that regression
10 is the price of pork. Correct?

11 A. Yeah. If you look at Paragraph 220, it's
12 not very long. I'll just read it.

13 It says, "Dependent variable. I use the
14 natural logarithm of per pound pork product price.
15 The use of the natural logarithm of prices is
16 common and allows the regression estimates to be
17 interpreted in terms of percentage price effects,
18 rather than absolute effects in dollars."

19 So it's the natural logarithm of the
20 per-pound pork product price.

21 Q. And what your overcharge regression does
22 is it attempts to explain changes in the dependent
23 variable based on the independent variables on the
24 right-hand side of the equation. Right?

25 MR. FINLEY: Objection, form.

260

1 A. That is correct.

2 Q. And the output, once you've run the
3 regression, is an equation that expresses -- has a
4 variable for each of the control variables in the
5 coefficients. And that is the way the model
6 predicts pork prices. Correct?

7 MR. FINLEY: Objection, form.

8 A. Yeah. I don't know if I'd say it quite
9 that way.

10 But after you run the regression, then you
11 get the results that were shown in Table 4. And
12 as you said, each independent variable has its own
13 coefficient, its own standard error.

14 And then it's the use of all of those
15 results, all of those estimated coefficients,
16 including of course the indicator or the dummy
17 variable for the damages period. It's the use of
18 that regression output that yields the but-for
19 prices.

20 Q. Is there a term that you use to describe
21 the prices that the model generates? Would you
22 call that a predicted price or an estimated price?

23 MR. FINLEY: Objection, form.

24 A. I just called it the but-for price. I
25 don't think it would be wrong to call it -- you

261

1 could call it a predicted but-for price.

2 Q. As I understand it, to get to the but-for
3 price you have to subtract out the effect of the
4 dummy variable that covers the conspiracy period.

5 Correct?

6 MR. FINLEY: Objection, form.

7 A. Yeah. I don't know if I'd state it quite
8 that way. But yeah, that's essentially correct.

9 You have to -- basically to calculate the
10 but-for prices, you're turning on -- you can think
11 of it as turning on or off that dummy variable.

12 Q. I may be oversimplifying it. There's
13 nothing strategic here. I'm just trying to make
14 sure we're talking about the same thing.

15 Your model has a number of explanatory
16 variables, including the damages period. Correct?

17 A. Right.

18 MR. FINLEY: Objection to form.

19 A. I think you're referring to the first
20 variable in Table 4 where the indicator of damages
21 period, which was that dummy variable, which is 1
22 in the time period January 2009 through June 2018.

23 And if we're not in that period, then
24 it's 0.

25 Q. And so to get to the but-for price, you

262

1 would take the price that the model predicts,
2 including all of the variables, and then you would
3 either remove or subtract the effect of the
4 indicator for the damages period. Is that right?

5 MR. FINLEY: Objection to form.

6 A. I don't think I'd state it quite that way,
7 but I think in essence you're stating it
8 correctly.

9 Q. Thank you. Let's take a look at
10 Paragraph 261.

11 (Interruption)

12 A. I apologize. Somebody walked into the
13 room. They're gone now.

14 Q. We can go off the record, if you need to.

15 A. They're gone. They were checking --
16 well . . .

17 Q. So in Paragraph 261 you say, "In addition,
18 I evaluate whether my model, which controls for
19 differences among direct purchasers with the
20 inclusion of direct purchaser (and product) fixed
21 effects, supports my conclusion that Defendants'
22 alleged conspiracy had a common impact on all or
23 virtually all direct purchasers. To accomplish
24 this, I use my model to predict but-for prices and
25 compare those prices to the actual prices for each